

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department - Khammam District - Revision Petition filed by Sri Parvathaneni Jayakumar(N.T), S/o Late Ramchander Rao, R/o D. No. 12-277, Near Police Qt., Brahmanpally, Wyra, Khammam District against the orders of the Additional Agent to Government in CMA.No.9/2003, dated 06.11.2004 in respect of Acres 4.00 gts. in Survey No:25 of Gundepudi (V) of Julurupad (M), Khammam District now Kothagudem District - Rejected - Orders - Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 60

Dated: 04-12-2018
Read the following:-

- 1) Revision Petition filed by Sri Parvathaneni Jayakumar(N.T), S/o (Late) Ramchander Rao, Near Police Qt., Brahmanpally, Wyra, Khammam District, dated:12.01.2005.
- 2) Govt. Memo & Letter No .617/LTR.2/2005, dated: 04.02.2005.
- 3) From the Additional Agent to Government, Bhadrachalam, RP.No.617/LTR-2/05-2 (CMA No.9/2003), dated:19.03.2006.
- 4) Govt. Memo & Letter No.617/LTR-2/2005-3, dated: 09-05-2006, 21.07.2006, 21.08.2007 & 03.09.2007.
- 5) Govt. Memo. & Letter No.617/LTR-2/2005, dated: 06.03.2010.
- 6) From the P.O. ITDA, Bhadrachalam, A3/617/LTR-2/05, dated: 17.05.2010.
- 7) Govt. Memo & Letter No.617/LTR-2/2005, dated: 11.06.2010.

-0o0-

ORDER

In the reference 1st read above, Sri Parvathaneni Jayakumar, S/o Late Ramchander Rao has filed Revision Petition through his counsel before the Government aggrieved by the orders of the Additional Agent to Government, Khammam District, dated: 6-11-2004 issued in CMA.No.9/2003, in respect of Acres 4.00 gts. in Survey No:25 of Gundepudi (V) of Julurupad (M), Khammam District now Kothagudem District.

2. In the reference 2nd read above, the stay petition has been rejected and the Collector, Khammam District and the Project Officer & Additional Agent to Government, Bhadrachalam were requested to furnish Para Wise Remarks and connected case records. In the reference 3rd read above the Additional Agent to Government, Bhadrachalam, Khammam District has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

- The impugned orders of the Special Deputy Collector, Palvoncha and the Additional Agent to Government & Project Officer, ITDA, Bhadrachalam are illegal, arbitrary and contrary to provisions of Andhra Pradesh Schedule Areas land transfer regulation.
- The Special Deputy Collector, Palvoncha and the Additional Agent to Government & Project Officer, ITDA, Bhadrachalam failed to see that the neither parties before Respondent No.4 nor Heeralal Moriya are from Tribal Community.
- The Special Deputy Collector, Palvoncha & the Additional Agent to Government & Project Officer, ITDA, Bhadrachalam failed to see all transactions between this petitioner and his vendor occurred prior to Regulation 1 of 1970.

[p.t.o]

::2::

- The Special Deputy Collector, Palvoncha & the Additional Agent to Government & Project Officer, ITDA, Bhadrachalam failed to see that all alienations by his person, whether such person is a tribal or not, is prohibited by Regulation 1 of 1970 only. Prior to Regulation 1/1970 the alienation between non-tribals even in agency areas were not prohibited.
- The Special Deputy Collector, Palvoncha & the Additional Agent to Government & Project Officer, ITDA, Bhadrachalam to see that Regulation 1 of 1970 is prospective in operation only and does not affect transactions prior to Regulation 1 of 1970.(See AIR 1996 SC 224 DY.COLLECTOR-VS-S.VENKATA RAMAIAH Page 231, para 21)
- The passing of impugned orders by the Additional Agent to Government & Project Officer, ITDA, Bhadrachalam without making this petitioner or his vendors party to the proceedings is illegal arbitrary & unsustainable.
- In W.P.10343/96 filed by B. Yelammandala for his peaceful possession of Acres 20.00 Guntas in Sy.No.25, Gundepudi Village, Julurpad Mandal, Khammam District in which this petitioner was Respondent No.6, the Mandal Revenue Officer, Julurpad Mandal (Respondent No.5 therein) filed counter affidavit wherein it was stated that as per revenue records Sy.No.25 area Acres 11.38 cts. stands in the name of Amrutlal Moriya & he sold the same to Heeralal Moriya Under Registered sale deed dt 16.04.1966 and the transaction was accepted by Tahsildar, Kothagudem on 19.02.1966. It was further stated that Heeralal Moriya sold the land to this petitioner on 25.12.1967. In spite of this, the Special Deputy Collector, Palvoncha issues show cause ejection notices to Sri Ravuru Venkata Subba Rao and not to the petitioner. The counter-affidavit of Mandal Revenue Officer, Julurpad was filed in the appeal before Respondent No. 4 but, the same was not referred to by the Additional Agent to Government & Project Officer, ITDA, Bhadrachalam.
- The proceedings before Special Deputy Collector, Palvoncha smack of collusion to defeat the rights of this petitioner.
- The appellate failed to see that Heeralal Moriya i.e. the vendor of this revisioner was examined as Dw.5 in O.S 78/1992 filed by M. Seshamma and he deposed that he executed the agreement of sale dt 25-12-1967 in favour of this petitioner. The vendor of this petitioner purchased the property under a registered. Sale deed dt 16-4-1966 after taking permission from the Tahsildar under section 47(2) of Hyderabad Tenancy and Agricultural land, 1950 vide R.Dis.A.2 8346/65.
- The pahani records also show the name of this petitioner for the year 1968-69 and thereon. This fact was admitted by the MRO, Julurpad in his counter affidavit at para 2 in W.P.10343/1966 filed in High Court of A.P.

4 The remarks of the Additional Agent to Government, Bhadrachalam on the Revision Petition are as follows:

- As from the lower court records, the case is built up between Sri A. Amurtha Lal and Ravuri Venkatasubba Rao who is the 1st Respondent herein. Before the Special Deputy Collector (TW) Bhadrachalam Court Sri. R. Ranga Rao who is the 1st Respondent herein attended the court and filed an affidavit stating that a civil suit OS.No.199/92 is pending and requested to grant time. The present Revision Petitioner Parvathaneni Jaya Kumar is not at all a party before the Special Deputy Collector, Tribal Welfare, Bhadrachalam.

[Contd...3]

- Before the Additional Agent to Government, Bhadrachalam the present Revision Petitioner filed CMA and the same was dismissed on the ground that the alleged sale is not valid. The main contention of the appellant that he purchased the land on 25-12-1967 through unregistered sale agreement and Rs.10,000/- was paid on 25-12-1967. It is well settled law that the sale is a compulsory registerable document under Land Registration Act and no title will pass to the purchaser unless it is registered. Apparently it is only a sale agreement and the Revision Petitioner is claiming the Schedule property under the said agreement. It is submitted that the Hon'ble High Court in CR.No.1087/96 dt 10.08.1998 in Bangaru Rama Tulsamma V/s Yada Mastan Reddy & others held that un-registered sale agreements are inadmissible evidence.
- The Revision petitioner has not filed any suit schedule in S.A. No.1090/01 to show that this scheduled land also included in the said case.
- The L.T.R. case No.316/94 was initiated on a report of the Special Deputy Tahsildar. It is submitted that an L.T.R. case can be initiated Suo-motu or on application or on a report from any one, if it is found that there is any violation of Regulation 1/59 taken place with regard to the immovable property between Tribal to Tribal or Non-Tribal to Non-Tribal. The petitioner himself admitted that he or his vendor was not made a party to the proceedings before the Special Deputy Collector. The petitioner who is not all a party and he is not entitled to contest the matter. If he is interested, he himself would have been added as a party to the proceedings. Basing on the records, the lower court rightly passed orders.
- The Revision petitioner preferred a CMA 9/2003 before the Additional Agent to Government, Bhadrachalam and the Respondent No.3 basing on the records available, passed orders. It is not correct to say that the Additional Agent to Government, Bhadrachalam passed orders arbitrary.
- The Schedule land situated in Scheduled Area by implementing the Ejectment orders the Schedule land will be assigned to the eligible poor tribals. The Petitioner wants to continue in the land by obtaining stay from the Hon'ble authorities. It is therefore prayed not to stay the operation of the orders passed in C.M.A.No.9/2003 and dismiss the Revision Petition.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government, observed that:

- Initially appeal was filed before Agent to Govt (District Collector, Khammam) and numbered as CMA No.27/02 against the orders of Special Deputy Collector in LTR case no.316/94. Later the case was transferred to Additional Agent to Government, Bhadrachalam.
- Claim is that the Revision Petitioner (Jayakumar) purchased the land on 25.12.1967 through Unregistered Sale agreement/Sale deed for Rs.10,000/-.
- The Revision Petition was advised to produce the following;
 - Original Sale deed
 - Pahani copies from 68-69 onwards.
 - 1-B recorded.

Appellant's Claim:-

- Miryala Sheshamma sold land to M. Amruthalal under possessory note dt 30.08.1954. Amruthalal was shown as Pattadar on 19.12.1966. Heeralal has purchased land on 16.04.1966 under a agreement.
- The Revision Petitioner has not produced any of the documents demanded by this authority. It is a sada deed which is not valid.

6. Government therefore after careful examination of the matter hereby rejects the Revision Petition filed by Sri Parvathaneni Jayakumar(N.T), S/o (Late) Ramchander Rao, Near Police Qt., Brahmanpally, Wyra, Khammam District before the Government against the orders of the Additional Agent to Government, Khammam District issued in CMA.No.9/2003, dated 06.11.2004 in respect of Acres 4.00 gts. in Survey No:25 of Gundepudi (V) of Julurupad (M), Khammam District now Kothagudem District and upholds the orders of the Additional Agent to Government, Bhadrachalam, dt 6.11.2004 in C.M.A.No.09/2003.

7. The Additional Agent to Government and Project Officer, ITDA, Bhadrachalam District shall take necessary further action accordingly. The original case records received in the reference 3rd read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

To

Sri Parvathaneni Jaya Kumar, S/o Late Ramchander Rao,
H.No.5-1-469, Kaviraj Nagar, Yellandu "X" Roads,
Kothagudem District - 507002

Smt. Ravuru Ranga Rao, S/o Ravuru Venkata Subba Rao (Died)
Resident of H.No.15-9-480/1, Asthalakshmi Apartment, Flat No.102,
Road No.6,Kaviraj Nagar, Yellandu "X" Roads,
Kothagudem District - 507002.

The Project Officer, ITDA and Additional Agent to Government,
Bhadrachalam, Khammam District (w. e.)

Copy to :

The Special Deputy Collector (TW), Palvoncha, Bhadrachalam District.
for information and necessary action.

The Tahsildar, Aswapuram Mandal, Khammam District.

M/s. G. Purushotham Reddy, Advocates (counsel for petitioner)
H.No.16-2-705/0, Near Chermas, Malakpet, Hyderabad 500 036.

Sri R. R. Kalyan, Advocate (Counsel for Respondent)
H.No.8-84, Road No.3, Gouthamnagar, Dilsukhnagar, Hyderabad - 500 060
Ramanthapur, Hyderabad.(9440354062)

The P.S to Minister (TW)/P.S. to Secretary(TW)
SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER